

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

IRON WORKERS' MID-AMERICA)	
PENSION PLAN, <i>et al.</i> ,)	
)	CIVIL ACTION
Plaintiffs,)	
)	NO. 19 C 5677
vs.)	
)	JUDGE STEVEN C. SEEGER
ROBERT S. MARTIN, an individual,)	
d/b/a RSM CONSTRUCTION,)	
)	
Defendant.)	

MOTION FOR ENTRY OF JUDGMENT

Plaintiffs, by and through their attorneys, default having been entered against Defendant, ROBERT S. MARTIN, an individual, d/b/a RSM CONSTRUCTION, on November 19, 2019, request this Court enter judgment against Defendant. In support of this Motion, Plaintiffs state:

1. On November 19, 2019, this Court entered default against Defendant.
2. Defendant is in violation of its obligation to submit all monthly contribution reports for the months of December 2018 and February 2019 through April 2019. Based upon a review of Defendant's history, the Fund's Administrative Manager estimates Defendant's liability for such period in the amounts set forth below:

	<u>Contributions</u>	<u>Liquidated Damages</u>
Mid-America Pension Plan	\$5,557.68	\$562.80
Mid-America Supplemental Monthly Annuity Fund	\$5,044.36	\$510.77
Local 444 Apprentice Fund	\$ 396.64	
Industry Advancement Fund	\$ 93.32	
Construction Industry Labor/Management	\$ 28.00	

(See Affidavit of Paul E. Flash ¶¶5-9).

3. An estimate was necessary in this case because the employer failed to maintain or provide adequate records of the hours worked by its employees under its collective bargaining agreement with Iron Workers Local 444. See, 29 U.S.C. §1059(a)(1); Roche v. Keith Scott Heating, Case 92C5753, 1993 WL 436375 (N.D. Ill., 1993). Specifically, Defendant has refused multiple requests to submit completed remittance forms, including by failing to respond to this lawsuit. As Plaintiffs are unable to obtain records from Defendant to confirm the hours worked, an estimate is necessary.

4. Pursuant to the Trust Agreements, a liquidated damages surcharge has been assessed against the Defendant in the amount of 1.50% per month on the whole amount of contributions paid late, for the month of January 2019, in the amounts set forth below:

	<u>Liquidated Damages</u>
Mid-America Pension Plan	\$53.60
Mid-America Supplemental Monthly Annuity Fund	\$48.65

(Flasch Aff. ¶¶4, 10).

5. In addition, Plaintiffs' firm has expended \$471.03 for costs and \$1,358.00 for attorneys' fees in this matter. (See Affidavit of Catherine M. Chapman).

6. Based upon the documents attached hereto, Plaintiffs request entry of judgment in the total amount of \$14,124.85.

WHEREFORE, Plaintiffs respectfully request this Court to enter judgment in the amount of \$14,124.85.

/s/ Patrick N. Ryan

Patrick N. Ryan
Attorney for the Plaintiffs
BAUM SIGMAN AUERBACH & NEUMAN, LTD.
200 West Adams Street, Suite 2200
Chicago, IL 60606-5231
Bar No.: 6278364
Telephone: (312) 216-2573
Facsimile: (312) 236-0241
E-Mail: pryan@baumsigman.com

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CERTIFICATE OF SERVICE

The undersigned, an attorney of record, hereby certifies that he electronically filed the foregoing document (Motion for Entry of Judgment) with the Clerk of Court using the CM/ECF system, and further certifies that I have mailed the above-referenced document by United States Mail to the following non-CM/ECF participant on or before the hour of 5:00 p.m. this 22nd day of November 2019:

Mr. Robert S. Martin
RSM Construction
13190 Capstan Drive
Temple, TX 76502-6806

/s/ Patrick N. Ryan

Patrick N. Ryan
Attorney for the Plaintiffs
BAUM SIGMAN AUERBACH & NEUMAN, LTD.
200 West Adams Street, Suite 2200
Chicago, IL 60606-5231
Bar No.: 6278364
Telephone: (312) 216-2573
Facsimile: (312) 236-0241
E-Mail: pryan@baumsigman.com

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